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**RACISM, RACIAL DISCRIMINATION, XENOPHOBIA  
AND ALL FORMS OF DISCRIMINATION:**

**COMPREHENSIVE IMPLEMENTATION OF AND FOLLOW-UP TO  
THE DURBAN DECLARATION AND PROGRAMME OF ACTION**

**Report of the Working Group of Experts and People of  
African Descent on its fourth session**

**(Geneva, 25 October-5 November 2004)\***

**Chairperson-Rapporteur: Mr. Peter Lesa Kasanda**

**Summary**

At its fourth session, the Working Group examined the themes of racism and employment, racism and health, and racism and housing. Each theme was presented by a set of panellists and discussions followed on the main issues and challenges which are to be tackled in addressing effectively racism, racial discrimination, xenophobia and related intolerance with regard to people of African descent. Overall, the panellists shared the same view concerning the difficulties in evaluating the extent of discrimination due to conceptual limitations and inadequacies in the collection of data. The Working Group adopted several recommendations on each theme.

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\* The annexes are circulated as received, in the language of submission only.

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## **Introduction**

1. The Working Group of Experts on People of African Descent held its fourth session from 25 October to 5 November 2004 at the United Nations Office at Geneva.

### **I. ORGANIZATION OF THE SESSION**

#### **A. Attendance**

2. The Working Group held 15 public meetings and four private meetings during its fourth session.

3. The Working Group was attended by its members: Peter Lesa Kasanda (Chairperson-Rapporteur), Joseph Frans, Georges Nicolas Jabbour, and Irina Moroianu-Zlătescu.

4. The fourth session of the Working Group was attended by observers from 58 States, 22 non-governmental organizations (NGOs), and two intergovernmental organizations. The list of participants is contained in annex II.

#### **B. Documentation**

5. The documents before the Working Group at this session are listed in annex III. All working papers submitted by the participants are available at the Secretariat or can be found at the site [www.unhchr.ch/html/menu2/7/b/mafrican.htm](http://www.unhchr.ch/html/menu2/7/b/mafrican.htm).

#### **C. Organization of work**

6. At the first meeting, held on 25 October 2004, the Working Group, in accordance with its mandate, re-elected the Chairperson-Rapporteur, Mr. Kasanda, and the Working Group adopted its agenda (annex I).

### **II. SUBSTANTIVE SUMMARY OF THE FOURTH SESSION OF THE WORKING GROUP**

7. The Chief of the Research and Right to Development Branch of the Office of the United Nations High Commissioner for Human Rights (OHCHR), Dzidek Kedzia, delivered the opening address. He asserted that racism, racial discrimination, xenophobia and related intolerance remained present threats to human dignity and that the Durban Declaration and Programme of Action provided the international community with a functional common agenda to combat their manifestations.

8. He also noted that the challenges faced by the international community through racism, racial discrimination, xenophobia and related intolerance included concerns about their infiltration into societies and that they were affecting the very foundations of democratic structures. The international community could no longer accept that whole communities were marginalized on account of skin colour, religion and/or culture.

9. OHCHR considered the Working Group as a vital mechanism in the struggle against discrimination and economic exclusion that affected certain racial and ethnic communities. He expressed confidence that the contributions of the united panellists would provide substantive input and establish a basis for a fruitful exchange of views among all participants at the session.

10. The Chairperson-Rapporteur made introductory remarks and discussed the provisional programme of work. He informed participants that several panellists would make presentations and lead the discussions on the three thematic topics, namely, racism and employment, racism and health, and racism and housing.

11. During the general debate, several government observers shared information on activities and measures undertaken at the national level to implement the Durban Declaration and Programme of Action. Some stressed that the Working Group should devote much attention to problems of access to justice, employment, affordable health care and housing problems faced by people of African descent.

12. One observer said that 70 per cent of the poorest segment of the population of her country was composed of people of African descent. Like in other South American countries, the Government had established affirmative action initiatives considered as fundamental in combating racism, racial discrimination and the elimination of poverty among people of African descent.

13. There was discussion about the mandate of the Working Group as regards the definition to be attached to the term “people of African descent”, which was central to the discharge of the mandate. At the request of the Chairperson-Rapporteur, the Secretariat submitted a background note on the mandate of the Working Group. In the note, the Secretariat relied on the content of Commission on Human Rights resolutions 2002/68 and 2003/30, which stipulated that the mandate of the Working Group covered all people of African descent. Indeed, resolution 2002/68, which created the mandate of the Working Group, stipulated in paragraph 8 (a) that the latter was “to study the problems of racial discrimination faced by people of African descent living in the diaspora”. However, resolution 2003/30 provided in paragraph 24 (a) that the Working Group was “to make proposals on the elimination of racial discrimination against Africans and people of African descent in all parts of the world”.

14. Many observers from African States emphasized the circumstances under which people of African descent lived around the world, in the diaspora. They were often victims of racism and racial discrimination. However, in some societies people of African descent were relatively well integrated in the society and, regarding this matter, best practices should be exchanged and examined by the participants.

15. Other observers expressed the view that the Working Group’s mandate was not limited to the study of problems of racial discrimination faced by people of African descent living in the diaspora, but extended to making proposals on the elimination of racial discrimination against Africans and people of African descent in all parts of the world.

16. One observer referred to the situation of people of African descent during conflicts, especially their need for and access to health care in such situations. If the nature of the conflict was founded on discrimination, the Working Group's mandate covered this situation regardless of the geographical area in which it had occurred.

17. Mr. Jabbour referred to the recent event in France to mark the honouring by the Government of France of several African States whose troops contributed to the liberation of France from Nazi Germany at the end of the Second World War. He also mentioned that, recently, Germany asked Namibia for forgiveness for the Herero massacre on the occasion of its hundredth anniversary.

18. Some observers expressed concern about the low attendance by NGO representatives. The Working Group's Secretary stated that NGOs had been informed, including those who were active in the Durban process. The low turnout could be explained by the limited financial resources of most NGOs, given the expenses that two weeks attending the Working Group's session in Geneva entailed. Several observers expressed the view that, for future sessions, interested NGOs should be provided with financial support.

19. Speaking on behalf of the African Group, the observer for the Republic of the Congo questioned the absence of two of the five experts who were expected to participate in the session. The Chairman explained the commitments which prevented the two experts from participating during the first week of the session.

#### **A. Racism and employment**

20. Manuela Tomei, manager of the International Labour Organization (ILO) Follow-up Action Plan to the Global Report, made a presentation entitled "Measuring interracial inequalities in the labour market: issues, facts and challenges". She spoke on the main issues and challenges associated with inter-ethnic/interracial inequalities in the labour market. She considered that a key condition for effectively addressing discrimination in employment and occupation was to know how significant it was and how it manifested itself. Hence, data collection was necessary to: (a) broaden the knowledge base on discrimination; (b) set targets and benchmarks to measure progress towards equality; (c) inform policy choices; (d) influence budgetary allocations; and (e) monitor and evaluate the effectiveness of policy interventions.

21. Ms. Tomei examined, in particular, the methods of racial identification and the racial categories used in Brazil, the United Kingdom of Great Britain and Northern Ireland, the Netherlands and the United States of America and the corresponding results, as those countries shared a history of past and recent immigration from many countries. In addition, Brazil and the United States had in common a legacy of slavery of Africans, although the relative size of their black populations differed considerably.

22. Ms. Tomei suggested that empirical studies all agreed on the existence of disparities in earnings or in unemployment and employment rates between dominant and minority ethnic groups. But controversy arose in the assessment of those disparities. One of the most contentious points was whether they were the expression of present discrimination, the consequence of past discrimination, or a combination of both. A correct analysis of the imbalances was crucial because of their implications for policy formulation.

23. Determining the extent of discrimination was a challenging task, owing to both conceptual limitations and inadequacies in the collection of data. During the first half of the twentieth century Brazil was portrayed as an accomplished example of racial democracy. The relatively disadvantaged position of non-Whites was ascribed to the legacy of slavery and to class prejudice, not to racial discrimination. However, mulattoes were perceived as having better social mobility than Blacks, as prejudice against “mixed blood” persons was considered to be weaker.

24. As of 1990, the category “indigenous” was also introduced, thus changing the country’s racial classification system to one based on both “colour” and “race”. The five categories presently used are: *branco*, *pardo*, *preto*, *amarelo* (yellow, which captures the descendants of Asian immigrants) and “indigenous”. *Pardos* and *Preto*s together constitute the “Negros” (Blacks) who represent the majority of the population in most states of the Brazilian Federation. This racial classification is used both by the national census, which is carried out every 10 years, and the “household survey”, which is an annual survey. The national census also inquires about nationality and place of birth.

25. In 2000, “Blacks” represented 45.2 per cent of the total population (5.7 per cent were *Preto*s and 39.5 per cent were *Pardos*), of 75 million. There were significant socio-economic inequalities between Whites and Blacks in Brazil and a clear hierarchy in the earning structure, with white men at the top, black women at the bottom and white women and black men in the middle. These disparities reflect: the considerable differences in human capital between races; the different distribution of occupations among races, a higher proportion of Blacks being employed in precarious, unskilled and low-paid jobs and beginning work at an earlier age; and discrimination in remuneration. Blacks (both men and women), regardless of the years of education, earned around 70 per cent of what Whites with similar qualification levels earned, thus suggesting the existence of discrimination.

26. The 1991 census of the United Kingdom introduced for the first time a question about the ethnic group affiliation of respondents and multiple choices were accepted. Nine categories had been identified: “White”; “Black Caribbean”; “Black African”; “Black Other”; “Indian”; “Pakistani”; “Bangladeshi”; “and Chinese” and “Any other ethnic group”. The census covered England, Wales and Scotland.

27. The 1994 Fourth National Survey covered only England and Wales, since only a limited proportion of minorities lived in Scotland. It used two questions to identify ethnic minorities: one was similar to the census’ question and the other asked about family origin (White/British/Irish, Black Caribbean, Indian Caribbean, Indian, Pakistani, Bangladeshi, Chinese, Other and Mixed). “Family origin” was considered to be more precise and reliable than group membership: family origin was a fixed fact, while “ethnic identity” might change in the life time of an individual or from one generation to another. Interestingly, the vast majority of people provided the same answer to both questions.

28. The Labour Force Survey of the late 1980s and the 1991 census reported some progress in the relative employment and earning levels of ethnic minorities compared to the early 1960s, when Caribbean and Asian people, irrespective of their class and levels of qualifications, were mostly clustered into low-paid manual work.

29. Overall, fewer women than men occupied the top professional and managerial jobs, but Chinese women were twice as likely as Whites to be in the top occupational group; this was the case for over 1 in 10 of all South Asian women and 1 in 20 Caribbean women. Generally, job levels and occupations of both men and women were correlated with academic qualifications, albeit not always, thus revealing discrimination.

30. Regarding the United States of America, the census was published every 10 years and since 2000, it identified 15 racial/ethnic groups: “Whites”, “Blacks” or “African Americans” or “Negros”; “American Indians” or “Alaska Native”; “Asian Indian”; “Chinese”; “Filipino”; “Japanese”; “Korean”; “Vietnamese”; “Other Asian”; “Native Hawaiian”; “Guamanian” or “Chamorro”; “Samoan”; “Other Pacific Islander”; and “Some Other Race”.

31. Unlike Brazil, in the United States of America, it was the notion of “race”, not “colour”, which prevailed. Ethnic/racial economic disparities remained very large, although African-American economic elites have emerged since the enactment of the Civil Rights Act in 1964. When looking at poverty trends for “African Americans”, “Hispanics” and “Whites” between 1970 and 1999, few changes had occurred for any of the groups until the early 1990s. Conversely, the economic boom of the 1990s helped reduce poverty significantly: the incidence of poverty among African Americans dropped from 31 to 21 per cent, among Hispanics from 27 to 20 per cent and among Whites from 9 to 7 per cent.

32. Declines in poverty were matched by a spectacular increase (at a higher rate than the rate at which poverty had fallen) for all groups in the proportion of affluent people during the 1990s. The economic boom of the 1990s raised the living standards of all three groups in absolute terms and those of African Americans and Hispanics relative to whites. But income disparities remained large: during the 1990s black income never reached two-thirds of white income. In the downturn from 2000 to 2002, annual income losses were 2.4 per cent for blacks and 2.5 per cent for Hispanics, compared to 0.7 per cent for whites.

33. Ms. Tomei concluded that racial differences and racism were a universal phenomenon, but their manifestations and intensity varied by country and over time, according to national historical circumstances, economic contexts and policy frameworks. Collecting regular, accurate and reliable data on the relative socio-economic status of subordinate racial/ethnic groups, and their gender dimensions, was a key to eliminating racial discrimination.

34. Mr. Chris Alando, a member of the Advisory Board of the NGO World Vision, gave a presentation entitled “Macroeconomics and ethnicity: monitoring global Afro-descendant employment”. He began his presentation by referring to the Millennium Summit and the eight Millennium Development Goals.

35. Mr. Alando declared that the ambitious targets for these Goals would remain meaningless unless social impediments to human development, including racism, were tackled. He provided and examined some statistical data and indicators in the field of employment among people of African descent from a macroeconomic development as well as programme monitoring and evaluation points of view. He concluded that statistical data and indicators on employment amongst people of African descent within global labour markets revealed that they were discriminated against in mixed societies, and at a rate that had generally surpassed discrimination based on gender.

36. Major shortfalls in the collection or availability of statistical data based on racial or ethnic disparities in employment at the national and global levels revealed that the relationship between the attainment of the Goals and racial equality might have been ignored.

37. Despite the size of the problem, few countries had effective monitoring and evaluation systems to assess the process and implementation of the various resolutions passed, and fewer still had adopted anti-discrimination legislation specifically targeted at populations of people of African descent.

38. A discussion followed the presentations, during which one observer referred to paragraph 92 of the Durban Programme of Action and stressed that there was a consensus among the international community on the need to collect, compile, analyse, disseminate and publish reliable statistical data. He referred to the third session of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action and its recommendations on data-gathering as being essential for policy-making. In that connection, the observer posed the question whether the ILO had programmes for statistical data collection and whether it was possible to harmonize policy on discrimination by comparing national statistics.

39. Another observer referred to Lee Swepton (Chief, Equality and Employment Branch, Human Rights Coordinator, ILO) of the comment at the third session of the Intergovernmental Working Group, when, speaking as a panellist on the preparation of complementary international standards to strengthen and update international instruments against racism, racial discrimination, xenophobia and related intolerance in all their aspects, he stated that “a solution to the problem of racial discrimination is impossible without data-gathering”.

40. Many observers echoed the view that there was a need to find the right balance between data-gathering which was useful for the goal of combating racism, and data-gathering which could be used towards a negative end and have a reverse effect in the fight against racism.

41. One observer stated that adequate approaches were needed for every society that suffered from racial discrimination to achieve full integration of people of African descent in the labour market. Additionally, she stressed the need to focus efforts on those measures that worked most successfully.

42. In her presentation Evelyne Doussou, from the NGO European Network against Racism, recalled that acts of racism and racial discrimination were human rights violations. In Luxemburg, almost 38 per cent of the population was foreign. That was explained by its geographical location, which had made it both a transit and host country throughout its history, and by the influx of immigrants since the 1970s, during the expansion of its mining sector. The large foreign presence was due to the country’s restrictive policy with regard to granting nationality: Luxemburg’s legislation did not, at present, allow for dual nationality.

43. The community “priorities” certainly penalized Africans seeking employment, but the lack of research and studies in the area made any analysis difficult. Ms. Doussou added that there was still a latent racism in many public institutions. Problems linked to the attitude of civil

servants should be treated much more seriously than was presently the case. It was undoubtedly important to punish such attitudes and forms of behaviour but training was equally necessary. It was essential that those officials be trained to observe human rights and to respect difference, so that they might become effective "human rights protection agents".

44. Julio Faundez, professor of law at the University of Warwick, United Kingdom, delivered a paper entitled "Equal opportunity and employment". He submitted that "equal opportunity" meant that employment decisions - such as appointments, promotions or selection for special training schemes - were taken on the basis of merit; irrelevant factors such as race or ethnic or national origin ought not to be considered. Only factors such as qualifications, ability to do the job and relevant experience were to be used in the selection and appointment of candidates. This approach was intended to ensure that all candidates for jobs were treated equally and that the principle of equal opportunity was respected.

45. Mr. Faundez discussed the direct or indirect aspects of discrimination. Direct discrimination occurred when an employer denied employment to a person because of his/her race, colour or national origin. It presupposed a discriminatory intent. Intent was reasonably easy to establish when the employer had explicitly or implicitly stated that he/she was not willing to hire members of a particular race. Intent, however, could also be inferred from the behaviour of the employer. Such inference could be drawn where an employer refused to hire a qualified individual who was a member of a particular race, and the job remained open to candidates with similar qualifications of a different race. Unless the employer could justify his/her decision on legitimate grounds, such behaviour could constitute direct discrimination.

46. Discrimination could also be indirect. This form of discrimination occurred when institutional policies or practices had the effect of systematically excluding members of certain groups from job opportunities. This form of discrimination was perhaps the most prevalent. It was also the most difficult to eradicate. It occurred when seemingly neutral job requirements consistently excluded members of a particular race. Such requirements included height or weight restrictions, or diploma or other formal requirements that were unrelated to the specific job.

47. Mr. Faundez submitted that legal remedies against discrimination were meant to reaffirm and restore the principle of equal opportunity. Yet, the principle of equal opportunity had an important limitation as it did not take into account the contemporary consequences of past discriminatory policies. He concluded that one of the reasonable ways to break the vicious circle of discrimination was to require employers to take positive measures so as to ensure that visible and invisible barriers that reproduced prevailing patterns of discrimination were promptly eliminated.

48. In the ensuing discussion, one observer remarked that many jobs in the public sector were legitimately reserved for nationals since they were very much linked to the authority of the State and the way in which it functioned.

49. One NGO observer referred to the direct link between racism and unemployment and how they were connected to lack of educational opportunities and poverty.

50. Another observer pointed out that gender inequality with respect to black women was such that positive measures were essential to reverse it. Although it was very difficult to evaluate the time frame during which positive measures were necessary, that uncertainty did not affect the fact that they were necessary.

51. Another observer referred to an issue that had to be revisited consistently, namely political will. It was not a “magic bullet”, however. States had different tools at hand, and political will had to be ascribed a certain level of priority. He raised the question as to how political will could be generated and what its source would be.

52. Two NGO observers stated that whilst some countries attracted highly educated and skilled immigrants from all over the world, professional status and qualified employment were governed by systemic barriers of colour, which most directly affected immigrants from Africa.

53. Jean-Pascal Obembo, a human rights expert, made a presentation entitled “Equal employment opportunities in the public sector for people of African descent”. He said that employment was the area of daily life in which the highest number of cases of discrimination were reported to both national and international organizations and specialized agencies. Discrimination in employment against people of African descent remained a major concern in most Western countries, not only at the recruitment stage but also during the person’s working life (working conditions, division of labour, access to in-service training, sanctions, dismissals).

54. There were two possible explanations for the difficulties faced by people of African descent as regards their eligibility for and appointment to posts in the public sector: the first was their lower than average qualifications and training; the second was direct discrimination in recruitment to the public sector.

55. While the existence of discrimination in recruitment was not disputed, it was difficult to assess its prevalence. Even the comprehensive statistics provided by market research institutes did little to elucidate the complex nature of the problem.

56. As the problem of discrimination in recruitment was not confined to one country, information was available from comparative studies. Efforts to combat discrimination in recruitment to the public sector could not be clearly distinguished from those to combat discrimination in other areas of daily life.

57. Such efforts involved combating discriminatory forms of behaviour by providing assistance, especially legal assistance, to the victims, as well as by taking preventive action in the form of awareness-raising training and mobilization against discrimination.

58. Boël Sambuc, Vice-President of the Swiss Federal Commission against Racism, made a presentation entitled “Discrimination in employment against people of African descent”.

59. Discrimination in employment was one of the most complex problems to be addressed by strategies to combat racism. Despite some methodological shortcomings, it had been possible in recent years to ascertain the level of discrimination against people of African descent in employment, inter alia, through the “testing” method. In Switzerland, that method had recently provided the basis for a study on discrimination in access by young migrants to employment.

Two candidates with the same qualifications, one belonging to the dominant group and the other to a minority group in terms of nationality, ethnic group or skin colour, telephoned or wrote directly to several recruiting officers. The tests proved the existence of discriminatory instructions or procedures and recruitment methods characterized by a wide range of prejudices and discriminatory forms of behaviour.

60. For the time being, there was little unanimity on the use of affirmative action in national policies to combat racism, at least through “hard-line” measures such as the imposition of quotas. That was the case, for example, in France and Switzerland, where parliament had refused to adopt any anti-discrimination policy based on quotas for women. Moreover, such measures were often viewed as giving unfair advantages - to the detriment of the dominant group - and as bending the rules of the labour market.

61. There was a long list of “soft” measures based on encouragement and pragmatism, including recruitment methods that upheld the principle of non-discrimination and the application of anti-racist legislation in the workplace. That method could be used systematically by the persons responsible in all recruitment procedures, in both the public and the private sectors.

62. In the ensuing discussions, the observer for Congo asked how the human rights instruments pertaining to combating discrimination could best be put to use, as the mere existence of legal instruments did not prevent people from being subjected to discrimination. He also stressed political will as fundamental in the implementation of non-discriminatory measures.

63. Vernellia Randall offered several examples of discrimination in employment in the United States and the usefulness of affirmative action in addressing limitations of access imposed by discriminatory practices.

## **B. Racism and health**

64. Vernellia R. Randall, professor of law at the University of Dayton, United States of America, entitled her presentation “Eliminating the ‘black health deficit’ of African descendants in the Americas and Europe by ensuring access to quality health care”, and discussed equal access to quality health care as a crucial issue facing people of African descent in the diaspora.

65. Ms. Randall submitted that economic access constituted a significant barrier for people of African descent who lived in countries without universal health care. Racial barriers to health care were based, in large part, on the unavailability of services in black communities. The shortage of black health professionals further affected health-care availability by limiting black input into the health-care system.

66. No single approach would adequately address the multifaceted problem of ensuring access to quality health care for people of African descent. Independent of economics, race affected access to care and the type and quality of health care received. Consequently, to improve the health of people of African descent in the Americas and in Europe, it was not sufficient merely to remove economic barriers to access. Health-care institutions would have to be more than affordable - they would have to be available and just.

67. Alicia Ely Yamin, professor at the Department of Health Policy and Management, Harvard School of Public Health, United States of America, began her presentation on the use of statistical data and indicators to monitor and promote the health rights of people of African descent, by referring to the American civil rights activist Dr. Martin Luther King, Junior who asserted that “of all forms of discrimination, discrimination in health is the cruellest”.

68. Ms. Yamin based her presentation on the core provisions on the right to health contained in article 12 of the International Covenant on Economic, Social and Cultural Rights, and article 5 (e) (iv) of the International Convention on the Elimination of All Forms of Racial Discrimination, which called for States parties to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the rights to public health and medical care.

69. She asserted that a review of those treaties, together with the other interpretative documents, established that the right to health included: (a) both health care and healthy conditions - including environmental and living conditions that constituted social determinants of health; and (b) effective participation in decisions affecting one’s personal or group well-being.

70. Eliminating racially based health disparities required collecting data on and addressing factors that went far beyond the health sector. With respect to the difference between a health indicator and a right to health indicator, she referred to the work of the Special Rapporteur on the right of everyone to the highest attainable standard of physical and mental health, Mr. Paul Hunt, who believed that a right-to-health indicator derived from, reflected and was designed to monitor the realization or otherwise of specific right-to-health norms, usually with a view to holding a duty-bearer to account.

71. The need for desegregation applied to measuring the policies and conduct of Governments. Although it was a challenge, collecting disaggregated data, alone was insufficient. Appropriate mechanisms had to be established to regularly and systematically analyse data for the purpose of detecting racial disparities, and in turn redressing such disparities and providing accountability. Such mechanisms, which are exceptionally rare today at the country level, even in wealthy countries, should exist at both the national and international levels.

72. When understood and appropriately used, statistical data and indicators could: (a) provide new understanding of the health problems of people of African descent by identifying areas and patterns of omission or violation; (b) present systematic information with respect to disparities as well as factors to assist in monitoring and comparisons, and suggest policy directions at national and international levels; (c) promote public awareness and debate about the health situations of people of African descent and highlight specific issues and disparities; and (d) communicate concisely the value of eliminating racial discrimination and protecting the health rights of people of African descent as well as other victims of racism, racial discrimination, xenophobia and related intolerance.

73. Dr. Florence Nantulya, a consultant paediatrician from Switzerland, made a presentation on disparities that have emerged in the fields of infant and maternal mortality rates, childhood immunizations, HIV/AIDS, heart diseases, cancer and contagious (communicable) diseases. She

began her presentation by asserting that it was well recognized and documented that minority groups all over the world were disadvantaged because of social, economic and cultural forces that marginalized them.

74. Infant mortality rate (IMR) was defined as the number of infant deaths (below 1 year of age) per 1,000 live births in a given year. Studies had shown IMR to be a good indicator for gauging the health status of a population group and was also important for its impact on life expectancy at birth. Most developed nations had seen declines of IMR to levels of 10 per 1,000 live births with life expectancy of over 75 years by 2000. The degree of decline of IMR across developing countries had been slow and less marked, with levels of IMRs still at 100 per 1,000 in more than 39 countries in Africa and the Caribbean region. The same disparity had been observed within nations across racial ethnic and minority groups, both in the developed and developing world.

75. In recent times, these disparities had attracted a lot of research, especially in the United States. This research had generated evidence that people of African descent had consistently higher IMRs, owing to very high rates of prematurity and infections, and therefore low health status and lower life expectancy at birth than their counterparts.

76. Dr. Nantulya explained that maternal mortality rate (MMR) was defined as the number of maternal deaths per 100,000 live births in a given year. The 1900s had seen a marked decline in MMR, from 150 deaths per 100,000 live births in 1950 to 57 in 1998 worldwide. Disparities had again consistently been observed across racial/ethnic and minority groups. MMRs were high in the low social-economic income groups and much higher still in the developing nations, where it is at present 100 times that in the United States. Studies there indicated that black women had higher MMR than the national average.

77. People of African descent had a genetic predisposition to higher and more severe blood pressure resulting in more complications, which also occurred at a younger age. Black elderly women had a particularly high incidence of stroke. Diabetes negatively affected heart disease, increasing risk of disease and death. Cancer was diagnosed more and caused ill health and death globally. Disparity in medical care coverage prevented access to preventive programmes and treatment to control disease or prevented complications and eventual death.

78. The scourge of HIV/AIDS and its devastating effects on the peoples of sub-Saharan Africa was well documented. By 2001, 40 million people were living with HIV/AIDS and 3 million had died from the disease that year. Recent data indicated that, in developed countries, HIV infection was increasing more rapidly in the black and other minority populations because of high-risk behaviour. The struggle to get treatment to the suffering poor was ongoing, while patients from developed countries had had full access to treatment for more than 10 years.

79. Research and experiments continued to show clearly that disparities in health status existed among different population groups and that people of African descent were worst affected. Strong and persistent policy advocacy was paramount globally, regionally and at country level to address socio-economic inequalities and to set up action plans to reverse this trend.

80. Jean-Pierre Poullier, a consultant at the World Health Organization, spoke on racism with a special emphasis on populations of African descent and on investment from a human rights perspective. He stated that health, racism and investment were interrelated in a unique way: improvements in health status would come only through a comprehensive policy and strategy designed to eradicate the consequences of inequities, inequalities, discrimination and poverty that found their roots in history.

81. Mr. Poullier noted that sound planning in health was part of virtually every sector of national planning; like the administration of justice and external relations. Conversely, virtually every part of a national strategy had a health status improvement/deterioration component. That principle, previously stated in several forums, was being restated here because most State policies were pursued regardless of their negative consequences for populations of African descent and other minorities.

82. In the ensuing discussions, observers for the African Group pointed to statistical data showing that sub-Saharan Africa suffered most from diseases such as HIV/AIDS, malaria and tuberculosis. It was also stressed that the health status of people of African descent in certain specific countries was worse than that of other citizens. According to WHO, there was no scientific evidence indicating that those disparities were due to genetic causes and that poverty, lack of access to health services and lack of information were usually the culprits. WHO had observed that those factors were rooted in racial discrimination. Observers for the African Group also raised the question of neglected diseases such as lymphatic filariasis (elephantiasis), schistosomiasis, intestinal parasites, leprosy and sleeping sickness (African trypanosomiasis) and established their linkages to poverty, discrimination and stigma, especially as regards people of African descent. They called on the international research community in general, WHO in particular, and relevant international organizations to support research to shed light on health disparities and to invest in and support the development and strengthening of health systems of countries unable to do so on their own, with a view to improving the access to and quality of health care for people of African descent.

83. An NGO observer noted that the issue of health and racism was a vicious circle. Many recent studies had shown racism itself to be an underlying cause of illness. Various studies had also demonstrated that people of African descent suffered from mental health concerns related to social, political and economic inequalities and also suffered from higher levels of anxiety, stress and stress-related illnesses such as high blood pressure and heart disease, with devastating effects.

84. Ms. Yamin insisted on the need to collect reliable disaggregated data and mechanisms to analyse them accurately. Ms. Randall stated that United States laws often excluded legal immigrants from access to health care. Ms. Sambuc said that, with regard to anti-racism legislation, the choice was between civil and penal punishments. She also underlined that neutral conditions in laws sometimes had discriminatory effects (indirect racism). Ms. Yamin reiterated that disaggregated data were crucial to show indirect racism.

85. The discussion expanded to the issue of property rights and the protection of traditional knowledge of people of African descent, which were often exploited by the pharmaceutical industry without compensation being offered to those who shared the traditional knowledge.

86. Asia Villegas, an ombudsperson in the field of health and social security in Venezuela, spoke on investment in medical/sanitary programmes and public health in her country. Ms. Villegas noted that the Government of Venezuela had made much progress in the last four years in developing health policies designed to ensure social inclusion and non-discrimination. There was now a health sector policy in place guaranteeing care which is free of charge and available to all.

87. Discussions on the presentations of the panellists included the queries on the particular situation of people of African descent in countries of Latin America. One delegate recommended that an efficient health-care policy target the most vulnerable groups, such as indigenous populations, people of African descent and people of mixed descent.

### **C. Racism and housing**

88. Joseph Schechla, coordinator of the Housing and Land Rights Network of the Habitat International Coalition, entitled his presentation “Investing in housing and racism affecting people of African descent”. He began by explaining that the subject of his paper lay at the intersection of the human rights to adequate housing and to freedom from discrimination. That intersection arose from the Universal Declaration of Human Rights and was codified in the major human rights treaties adopted since the 1960s. The International Convention on the Elimination of All Forms of Racial Discrimination embodied the human right to adequate housing and the specific prohibition against discrimination within the context of its article 5 (e) (iii).

89. Mr. Schechla explained through a series of practical examples how public policy affecting relevant housing budgets and investment patterns discriminated against people of African descent. He asserted that the Committee on Economic, Social and Cultural Rights had issued guidance in its general comment No. 4 on the right to adequate housing, which stipulated that: “adequate housing” is comprised of the following elements: (a) legal security of tenure; (b) availability of services, materials, facilities and infrastructure; (c) affordability; (d) habitability; (e) accessibility; (f) location; and (g) cultural adequacy. As examined in the general comment, the right to adequate housing could be viewed in isolation from other human rights contained in the two International Covenants on Human Rights and other applicable international instruments.

90. To combat discrimination, there was a variety of remedies which were consistent with the human right entitlement to compensation. In addition to remedies for individual or class-action victims, corrective measures to redress past discrimination through positive measures could also be effective. A State’s respect of its obligation to ensure non-discrimination in public policy required the observation of legal obligations and jurisprudential guidance to respect, defend, promote and fulfil the human right to adequate housing.

91. Selman Ergüden, Chief of the Housing Policy and Development Section and Coordinator of the United Nations Housing Rights Programme at UN-Habitat, made a presentation entitled “The global challenge on housing and human settlements: Issues of people of African descent and in Africa”.

92. Africa had the world's highest urbanization growth rates with an annual average growth of 4 per cent, almost two times faster than Latin America and Asia. Currently, 37 per cent of the total population in the continent lived in cities and by 2030 the urban population was expected to rise to 53 per cent of the total population. Those trends indicated that Africa was no longer the least urbanized continent in the world; it had overtaken Asia by a slight margin. Current trends revealed that sub-Saharan Africa was the only region where the number of people living in extreme poverty would increase by more than 100 million between 1990 and 2015. This economic and social profile of the continent was reflected very clearly in housing conditions with growing slums in urban settlements. Housing conditions of people of African descent living in the diaspora and in Africa could generally be characterized as the worst in the world.

93. Mr. Ergüden contended that housing policy should be based on a coherent package of fundamental goals, including secure tenure; transparent land markets; access to services; access to affordable credit; protection under the law, including from arbitrary eviction; access to information, and efficient administration.

94. As UN-Habitat's experience indicates, the most important factor limiting progress in improving housing and living conditions of low-income groups, particularly in slums, was the lack of genuine political will to address the issue in a fundamentally structured, sustainable and large-scale manner. There was no doubt that political will, combined with local ownership and leadership, and the mobilization of the potential and capacity of all stakeholders, particularly the people themselves, were the key to success. Lessons from several countries underscored the importance and the fundamental role of sustained political will and commitment.

95. It was essential that good urban governance be promoted to support the formulation of effective housing policies. The role of local authorities, landowners, community leaders and the residents themselves should not be underestimated and an enabling institutional framework involving all partners should be established. Consistent with poverty eradication strategies and objectives, adopting a rights-based approach to housing development was fundamental in addressing the needs of the poor and other disadvantaged and vulnerable groups.

### III. RECOMMENDATIONS

96. **The Working Group of Experts on People of African Descent submits the following recommendations to the Commission on Human Rights for consideration at its sixty-first session:**

#### **General**

**1. States should give priority to improving and funding systems to collect reliably disaggregated data to measure inequalities among specific social groups, including racial groups, with a view to identifying and implementing appropriate corrective measures to combat racism and racial discrimination experienced by people of African descent.**

- 2. States should ensure that reliable disaggregated statistical data are made available widely to the public and that the implementation and evaluation of policies and programmes based on such data analysis involve consultation and the participation of the public, including the civil society organizations.**
- 3. States should ensure that anti-discrimination laws are implemented in a comprehensive and practical manner in order to eliminate conditions that give rise to institutional and indirect discrimination affecting people of African descent in the public and private spheres.**
- 4. States are encouraged to use racial-impact assessment methodologies in evaluating the results of anti-discrimination legislation.**
- 5. States are urged to address persistent racial discrimination by undertaking specific positive measures aimed at overcoming underrepresentation of people of African descent and to ensure an equitable redistribution of resources and power between the latter and the dominant group. In this respect, people of African descent will be placed on an equal footing and will be empowered by an enabling environment through equitable treatment at all levels of society, in order to address the differences caused by racial discrimination.**
- 6. States should establish, where appropriate, positive-measure programmes ensuring equitable opportunities and participation of people of African descent in politics, the administration of justice, economics, education, employment, health services and all other services, whether public or private.**
- 7. In accordance with the principle of good governance, States should formulate and integrate positive measures within national plans of action for human rights to combat and remedy discrimination, pursuant to the relevant provisions of the Durban Declaration and Programme of Action so as to ensure effective participation of people of African descent.**
- 8. Recognizing the differential treatment based on racial and gender discrimination faced by women and girls of African descent, which impedes the full realization of their economic, social, political, cultural and civil rights, States are urged to adopt and implement positive measures to ensure the full realization of their substantive equality.**
- 9. States should ensure that positive measures aimed at accelerating the achievement of the substantive equality of persons of African descent in employment and the labour market also address the situation of vulnerable groups of people of African descent who are victims of multiple forms of discrimination.**
- 10. The Working Group reiterates its recommendation that a special fund be established to facilitate the participation of NGOs with particular interest in the area of competence of the Working Group.**

### **Racism and employment**

**11. States should ensure that national labour market statistical data is disaggregated in accordance with, inter alia, race, colour, ethnic origin, level of education and gender. Internationally recognized criteria of general relevance such as racial and colour “self-identification” could be considered as important in the collection of such data. Occupational segregation and earning data are important indicators in tracing racial inequalities and discrimination in national labour markets.**

**12. States should adopt and implement national anti-discrimination legislation providing for the organization of the State apparatus to protect the right of people of African descent from racial discrimination caused by private persons, and facilitate the ability of victims to seek effective reparation.**

**13. States should ensure that the development and implementation of positive measures aimed at accelerating the achievement of substantive equality of persons of African descent are also accompanied by strong monitoring and evaluation mechanisms at the national level to assess the interracial impact of such positive measures. This will ensure their effective implementation and serve to effectively correct the inequalities faced by people of African descent.**

**14. States and NGOs should combine positive measures with persistent awareness-raising campaigns at global and national levels in order to achieve a more systematic and consistent approach in removing obstacles to non-discrimination in employment with regard to people of African descent.**

**15. Recognizing the pervasive and distinct form of racism faced by people of African descent in employment and the labour market, ILO should take steps to adopt measures, including the development of policies and programmes that will contribute to eliminating discrimination and empowering people of African descent.**

**16. States should develop initiatives aimed at combating discrimination and facilitating equality of opportunity, both in recruitment and in the workplace, by providing and facilitating access to training, equal remuneration and job security, and promoting the insertion of people of African descent into management and senior management positions and in the sectors and professions in which they are underrepresented.**

**17. With the increase in global migration and the compounded discrimination faced by migrant workers of African descent, States are urged to take concrete measures to develop and implement policies and programmes that will promote the access and participation of these workers in employment and labour markets.**

**18. States are urged to adopt measures to remove the barriers that prevent people of African descent with foreign credentials from accessing professions and occupations within their relative fields of experience and education.**

**19. Organizations and associations engaged in combating racial discrimination should be encouraged to develop/facilitate collaboration with trade unions, employers' organizations and other groups involved in fair practices in employment.**

**20. States should set up domestic mechanisms, including ombudsperson offices where appropriate, to receive, handle and follow up on complaints from victims of recruitment and employment-related discrimination affecting people of African descent.**

#### **Racism and health**

**21. The Working Group endorses the recommendations concerning racism and health submitted by the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action, as adopted at the fourth session of the Intergovernmental Working Group.**

**22. States should support the collection of comprehensive, disaggregated racial data on access to medical treatment and disparities in this treatment including:**  
**(a) routine and systematic collection of race, gender, and socio-economic class data as related to health status and health care; (b) data on access and quality of health care (particularly service delivery, diagnosis and treatment, facility availability, provider availability, and other related health activities and services); and (c) making all data available to the public.**

**23. States should improve and, where necessary, establish mechanisms and processes to systematically assess health and socio-economic data in order to detect disparities based on racial discrimination, with the view to enhancing the enforcement of international human rights standards.**

**24. States should support research and projects focused on understanding the causal pathways of racism's effects on health, in order to tailor legislation and remedial social policies accordingly.**

**25. States should ensure access by people of African descent to quality health care, including preventive programmes, screening, diagnosis, treatment, follow-up services and special care. In these respects, States should ensure the availability of the necessary drugs and treatments.**

**26. States should ensure that health-care research clinical trials and health-care developments, including those related to biochemistry, duly take into consideration the health needs of people of African descent and are translated into effective clinical practice.**

**27. States should ensure that the health care for people of African descent is sensitive to their cultural backgrounds and language needs.**

**28. States should undertake positive measures to increase the education and training of people of African descent as health-care professionals.**

**29. States are urged to adopt measures addressing the health-care issues of women and girls of African descent.**

#### **Racism and housing**

**30. States should undertake and effectively implement preventive and compensatory measures to tackle forced evictions of people of African descent, in particular in the light of the inextricable links between poverty, the right to adequate housing and forced evictions as a component of the right to an adequate standard of living.**

**31. States should maintain reliable and disaggregated statistical data in order to monitor living conditions of people of African descent and to prevent discrimination in housing and services that lead to segregation, denial of access to utilities and services, prevention of forced evictions, homelessness, land and property loss and exclusion from effective participation in decision-making affecting housing rights.**

**32. States should formulate and harmonize policies and take legislative measures to ensure domestic application of the human right to adequate housing, to address violations and the needs of victims who are of African descent, including meaningful compensation, restitution and other remedies.**

**33. States should formulate and implement effective programmes to improve living and housing conditions for people of African descent, including adequate subsidies for home ownership and rental, regulation of housing markets to meet the need for affordable housing, protection against unfair renting practices, development of alternative tenure arrangements and other appropriate measures.**

**34. Consistent with paragraph 8 (c) of the Durban Programme of Action, international financial and development institutions should develop and strengthen their programmes concerned with victims of racism and racial discrimination by allocating adequate and additional funds aimed at ameliorating housing conditions of people of African descent.**

**35. States policies and strategies for housing development should be an integral part of poverty-eradication approaches. Formulation and implementation of housing policies and strategies should be closely related to effective urban and rural governance.**

**36. States should strengthen local authorities and involve all stakeholders in the elaboration, monitoring, evaluation and implementation of housing policies, through consultative and participatory approaches.**

**37. States should strongly encourage and support the efforts and initiatives of slum-dwellers and non-governmental and community organizations in the upgrading of their living environment, through technical and financial assistance.**

**38. States should ensure that their treaty obligations to promote, defend and fulfil the right to equality and non-discrimination are applicable to the right to adequate housing as a component of human rights to an adequate standard of living, and that they are integrated into policy formulation processes with a view to helping remedy poor living conditions of people of African descent.**

**39. States are encouraged to adopt measures addressing housing conditions of people of African descent, especially those of single women.**

#### **IV. OTHER MATTERS**

97. The Working Group held a private meeting with the African Group on 27 October 2004 to discuss questions raised as to the absence of two experts of the Working Group. The African Group also raised the issue of definition of “people of African descent” with respect to the scope of the mandate of the Working Group. The Chairperson-Rapporteur explained that the absence of the two experts was due to the rescheduling of the session, resulting in agenda conflicts for the experts, but that one of the two would participate at the session during the second week. The Chairperson-Rapporteur also submitted that the interpretation of the mandate of the Working Group was defined by its parent body, the Commission on Human Rights. The latter had established through its resolutions 2002/68 and 2003/30 that the Working Group was to study the problems of racial discrimination faced by people of African descent living in the diaspora and to make proposals on the elimination of racial discrimination against Africans and people of African descent in all parts of the world.

98. During its private meetings, held on 2 November 2004, the Working Group considered, inter alia, the issue of country visits and concluded that they were necessary for the effective discharge of its mandate by facilitating in-depth understanding of the situation of people of African descent in various regions of the world. They offered the opportunity: to examine the status of the realization of human rights as regards conditions necessary to guarantee the civil, political, economic, social and cultural rights of people of African descent; to engage in dialogues with particular Governments, United Nations and intergovernmental organizations and civil society in their efforts to ensure the realization of the principle of equality and non-discrimination; to identify practical solutions and best practices in the realization of the provisions of the Durban Declaration and Programme of Action, its follow-up and relevant concluding observations, comments and recommendations made by treaty bodies, and to assess their impact on policies adopted by the countries concerned.

## **ANNEXES**

### **Annex I**

#### **AGENDA**

At the first meeting of the fourth session, on 25 October 2004, the Working Group, in accordance with its mandate, adopted the following agenda:

1. Opening of the session.
2. Election of the Chairperson-Rapporteur.
3. Adoption of the agenda.
4. Organization of work.
5. General statements: exchange of information on participants' implementation activities and debate on issues of general interest to the implementation process.
6. Thematic analysis: discussion on and analysis of the following issues:
  - (a) Employment;
  - (b) Health;
  - (c) Housing.
7. Adoption of conclusions and recommendations.
8. Other matters.
9. Closing of the session.

## **Annex II**

### **LIST OF PARTICIPANTS**

#### **A. Members**

Mr. Peter Lesa Kasanda (Chairperson-Rapporteur)

Mr. Joseph Frans

Mr. Georges Nicolas Jabbour

Ms. Irina Moroianu-Zlătescu

#### **B. States Members of the United Nations and Members of the Commission on Human Rights represented by observers**

Argentina, Bahrain, Brazil, Chile, China, Congo, Costa Rica, Croatia, Dominican Republic, Egypt, Ethiopia, France, Honduras, Ireland, Japan, Mauritania, Mexico, Nigeria, Peru, Republic of Korea, Romania, Russian Federation, South Africa, Sweden and Uganda

#### **C. States Members of the United Nations represented by observers**

Algeria, Angola, Belgium, Benin, Colombia, Cote D'Ivoire, Czech Republic, Democratic People's Republic of Korea, Denmark, Ecuador, El Salvador, Finland, Iran, Israel, Jamaica, Jordan, Libyan Arab Jamahiriya, Luxemburg, Madagascar, Mali, Mauritius, Morocco, Nicaragua, Norway, Philippines, Rwanda, Syrian Arab Republic, Tanzania, Tunisia, Turkey, Uruguay, Venezuela

#### **D. Non-member States represented by observers**

Holy See

#### **E. Intergovernmental organizations**

African Union, International Organization for Migration

#### **F. Non-governmental organizations in consultative status with the Economic and Social Council Special consultative status**

African Canadian Legal Clinic, C.I.S.M. - Veneto, Dayemi Complex Bangladesh, December Twelfth Movement International Secretariat, Femmes Africa Solidarité, Interface International, International Committee for the Respect and Application of the African Charter on Human and Peoples' Rights, International Service for Human Rights, Worldwide Organization for Women

#### **Roster**

International Human Rights Association of American Minorities, Movement Against Racism and for the Friendship Among Peoples

**G. Non-governmental organizations not in consultative status  
with the Economic and Social Council**

Capital Region Race Relations Association, Club Martin Luther King, Congo Peace Initiative, DERPREA, Espacio Afroamericano, IHEAL, Ligue burundaise des droits de l'homme "ITEKA", Our Rights, National Competition in the Areas of Health and Social Security, Red Afro-Venezolana Alianza Afro Latino americana, Vancouver Island Human Rights Coalition

**H. Panellists and presenters**

Mr. Chris Alando, Ms. Evelyne Dossou, Mr. Selman Ergüden, Mr. Julio Faundez, Mr. Florence Nantulya, Mr. Jean-Pascal Obembo, Mr. Jean-Pierre Poullier, Ms. Vernellia Ruth Randall, Ms. Boël Sambuc, Mr. Joseph Schechla, Ms. Manuela Tomei, Ms. Alicia Ely Yamin

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